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Electoral Bribery and Corruption: a Deterrent and a Game Changer towards Democratic Process and Fair Election in Kenya

By Eric Thomas Ogwora

Abstract

The fundamental question which this paper addresses is the role of bribery and corruption as a game changer in the choices people make during election of political leaders. In tackling this, the paper discusses the political organization of Kenya. It expose the factors which are quintessential in explaining and understanding Kenya politics. I then goes further to show the various electoral malpractice which take place during the electioneering period. Finally, the paper point out to what extent all these malpractices are linked to bribery and corruption which the greatest game changer is in and a deterrent to the achievement of democratic processes and free election of desired leadership.

Key words: Electoral Bribery and Corruption, Democratic Process, Fair Elections, Kenya

Citation Format

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Introduction

Africa continues grappling with its governance and political organization which in most cases has not fundamentally changed in any way to warrant better governance. Africans are crying for governance style characterized by citizenry participation, accountability, and transparency, fair and free election which honors the rule of law, peaceful transfer of power among others. When you listen to issues emanating from various elections which have taken place in Africa, you are led to conclude that democracy in Africa is a concept with a different meaning than what is globally acceptable. Electoral bribery and corruption; violence, wars, intimidation, vote buying, unfair campaign strategies, voter stuffing, disfranchisement, unjust handling of opponents in the competition, government suppression on those perceived to be challenging their regime,- all have cast shadow of doom in Africa. In Kenya, the last five election cycles have seen it all. People, especially politicians have used all wrong tactics to rise to power and the throne of leadership. This paper examines the role of electoral bribery and corruption, which is thought to underpin all malpractice in straining the opportunity for people to make fair and democratic choices during election.

1.1 Matter of context

Kenya is one of the African countries where bribery and corruption has become critical and wanting. This has become a powerful tool in determining whether you will get anything done for you in public and private sector. There are many factors which influence decisions but bribery and corruption, in the recent past, has become rampart such that all other factors are subservient to it. It doesn't matter which sector; public or private, governmental or non-governmental organizations, corruption is at stake. While the economic sector has been highly hit by this menace, other sectors have registered cases of corruption which point to the fact that they are not water tight to say the list. One way we can help this menace is to have proper and fairly elected leaders who will take the mantle and lead the country out of this vice. Unfortunately the leaders themselves are product of such vice, a means which they use to come to power. According to a recent research done by Konrad Adenauer Stiftung (KAS) Foundation, which is in partnership with Centre for Multi-party Democracy (CMD) on voter bribery as an election malpractice in Kenya, 56% of Kenyans admitted to have ever been bribed during election period. This translates to a population of about 9.5 M eligible voters who will cast their ballot for a candidate who bribes them. This research which was carried out 163 day to election, has exposed a very intricate and cognate issues pertaining to election malpractice in Kenya. In this research, many of the voters who accepted to have been bribed are those from the rural, those who are poor, and largely, those who are uneducated (without elementary primary education). Generally, bribery and corruption during electioneering period has become a perennial practice. The research further exposed a glaring situation whereby voters reported to have been given between Ksh.50

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(0.5dollar) – Ksh.200 (2 dollars) which essentially points to the deep seated vicious cycle which the people have been pushed to.

In another research carried out in 32 African countries, which included Kenya, it was realized that there is a history of vote manipulation entrenched in people's memories, lack of transparency of election monitoring bodies and corruption. Peter Perner concludes in this research that all these influence people's trust in the system and many are afraid when casting their vote (Afrobarometer, published by pan-African research institute)

2.0 Bribery and Corruption a Game Changer in Election in Kenya

The electoral process of any given country is the yard stick by which the integrity of a government is measured, not just by its citizens, but by the international community as well. If it is free, fair, transparent, peaceful and credible, then promotion of proper and democratic governance and leadership is achieved. On the contrary, if it is marred by vices and morally unacceptable practice, it loses meaning. Bribery and Corruption is a complex social, political and economic phenomenon that affects almost countries; rich and poor, big and small. Corruption undermines democratic institutions, slows down economic development and contributes to governmental instability. Corruption attacks the foundation of democratic institutions by distorting electoral processes, perverting the rule of law and creating bureaucratic quagmires whose only reason for existing is the soliciting of bribes. Economic development is stunted because foreign direct investment is discouraged and small businesses within the country often find it impossible to overcome the “start-up costs” required for business because of corruption. According to the investigation that was carried out about 2007 and the preceding election in Kenya, on the cause and nature, one of the major findings was that the elections witnessed: Vote-buying and selling (Kriegler and Waki Reports on 2007 Elections.)

2.1 Bribery and Corruption in electoral process

Bribery and corruption has become a complex phenomenon and a practice which has gone unabated for quite some time in Kenya. Today, bribery and corruption during election period is taken to be a normal thing because without it even the citizens are not willing to participate in election. Many of the citizens want to be appreciated or paid in order to take time and vote in a particular candidate. Bribery and corruption start as early as one or two years before the date of election. Bribery and corruption has become a huge menace because of the immediate benefits that is associated with it. Nowadays it is very hard to know when one has been given a bribe and when one has been appreciated. It is every extremely hard to distinguish the difference between a gift, token, church offering, contribution towards hospital bill, a friendly support, and even a real bribe. The roots of bribery and corruption and the extent it has gone in Kenya is deep such that it has become a culture. By culture, is meant a way of life and part of people's general practical life. They have invented names, culturally acceptable names to describe, explain and to name this act. Kenyans have found better words which describe and explain this vice till it looks like a normal and morally acceptable thing. In other words, the use of words portraying euphemistic features and style have been developed to dissuade and disabuse the fact that bribery and

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corruption is evil and unacceptable. Consequently, the act of bribe is not called by this name especially when it occurs during political processes. Let us make a small survey to illustrate this by using four communities which are vibrant in Kenyan politics.

Political terminologies used by the Abagusii, in relation to bribery and corruption during political campaigns are diverse. They have introduced into the vocabulary of political science a term in ekegusii which they call ogoserwa, literally translated as (posho milling) toserere, (mill for us) isere, (mill for me) which is literally translated as the act of posho milling. This is a recent concept which among the abagusii especially of Nyamira and Kisii county means that in order for them to be convinced to vote for you, do not use empty words explaining your manifesto, your ideology, your capacity and ability in leading them. Just give them some little money to help them take their maize to the posho mill.

Among the Luos of Kenya, various terminologies have been developed in relation to bribery and corruption it works as a game changer during campaigns and electioneering period. The term they use is not similar to the abagusii Ogojera, toserere, isere, but it has the same intended action. The word used in Dholuo is gonywa. Literally translated as untie or remove barrier or an obstacle or set people free. The terminology is founded on the view that after a politician has talked to people about himself and the intentions to be supported to become a leader, he cannot just leave and go. He must ‘untie the gathering.’ Meaning they have to be set free by removing any barrier or impediment which may make them not to act as the politician said. This is done by giving them money. In other words, the people ask politicians to give them money in order to vote them in. On many occasions voting is related to money, where the more the money given in terms of amount and to as many people as possible, the higher the chances of winning the election.

Political terminologies used by the Kalenjins in relation to requesting for a bribe during political campaigns are many. For them the term bribe and corruption in regard to election is not properly distinguished however, they are elaborately designed to inculcate culturally acceptable norms and moral values like being kind and reciprocal. Some of the terms designed and modified to mean bribe include:

1. “Namtechmwai”: The word ‘namtech’ Means ‘hold me/us’ while “mwai” means ‘oil’. Oil represent money (or anything of great value) needed to make one feel good. “Namtechmwai” is used by the locals asking the politicians to give them something before they vote for them.
2. “Makinamebenybirirbuch”. The word ‘makiname’ means ‘don’t touch’; ‘benybirir’ means ‘red meat’, while ‘buch’ means ‘nothing’. ‘Makinamebenybirirbuch’ therefore means “you can’t touch the meat bare handed”. The locals often use this word to inform the politician(s) that s/he can’t get to power just like that. The meat in this case represents political power and money.
3. “iilankut” The word, ‘iilan’ means ‘anoint me/put oil on’ while ‘kut’ means ‘mouth’. “iilankut” therefore mean ‘anoint/put oil on my mouth’. The locals often ask the politician to put something (money or anything of value) to them before they give them votes. “For me to speak good of you, please give me something”.

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Consequently, one could say that bribery and corruption, is significant in Kenya to a level that institution have failed to avert it. Ideally speaking, the issue of voter bribery and corruption has continued to influence the voting patterns. Because of poverty, people have become susceptible to this without knowing that on long run, they are the ones who suffer due to unaccountable and unresponsive leaders they elect. It is important from the onset to indicate that fair and accountable government is crucial in ending poverty and promoting human rights and respect for the citizenry. This, in our honest opinion is the first step towards changing the democratic processes in leadership.

Nic Cheeseman in the work *Democracy in Africa: A resource for the study in Africa*, have pointed out that most countries in Africa are grappling with the issue of Democracy, with many challenges. It is not easy to say whether African countries are fully democratic or completely authoritarian. The two systems continue to survive in Kenya complementing each other in few occasions but contradicting each other in many occasions. For instance, many countries in Africa, Kenya included, practice multiparty election where many parties field candidates for various positions. This is a true sign of democracy, but within this democracy, there is no level political playing field to ensure free fair and credible election. This is the reason why scholars are arguing that Kenya is not purely democratic state. Some of the factors which tilt the field is bribery and corruption. This semi democratic situation is what has affects the free expression of democratic right of choice. They contend that democracy is all about people's participation in the election exercise. They however don't tell their people what happens before one is persuaded to cast his vote or more substantially what happens between polls and declaration of winner which are equally important for a vibrant democracy.

Moreover, bribery and corruptive deals in election have made citizens' confidence in governmental institutions to be eroded day in and day out. This is because these two vices undermine people's democratic freedom and participation, their free choice and determination thereby risk them to becoming a democratic façade. In our admission, the existence of electoral code of conduct can only be followed if the populace is educated and willingly accepts to remain indifferent to voter bribery. Ultimately, free and fair elections hinge on the freedom of political parties to campaign for votes without intimidation and violence, access to all parties and a level playground for all.

2.2 Factors contributing to Bribery and Corruption during Election

Arguably, bribery and corruption has posed a complex situation, while this this paper identifies poverty to be the triggering factor or rightly put, a substratum to all other factors, there are some organizational and functional factors which lead to electoral bribery. They include:

2.2.1 Political patronage

The notion of patronage is not a recent thing. Patronage existed right from the ancient times especially in academic and political life. Patronage as such can be defined as an unequal relationship of mutual and dependence and reciprocity. Usually what is intended in seeking for a patronage is due to differentiation of power, wealth and status in the society. In this way one

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provides such means and protection. The position of a patron is created in such network so as to have someone who dispenses largesse, resources to the clients and protection; in return the patron get unwavering loyalty and support at all times. Competition between ethnic champions and patronage networks for finite State resources is likely to lead to an increase in corruption. Political patronage works in more or less the same way. Here it means but not limited to the dispensation of favors or rewards such as public office, jobs, contracts, subsidies, prestige or other valued benefits by a patron to a client. The patron in this case can be highly powered officer, minister, chief officer or a president. While this is a manifestation of corruption in the public service which demands that appointments should be based on merit and regional balance, it leads to a very disappointing situation when extended to election processes. One unique feature which connects political patronage to election is where one is elected to an office as a way of reciprocating for being a patron. Such appointments are given to individuals from particular communities, but this is taken as appointment of a community so that they can vote massively for the patron. While money do not exchange here, such is a form of bribery and corruption because the appointment is given and in return the community is told to vote in a particular party and person.

2.2.2 Lack of political will

One reason why there is bribery and corruption continuing in Kenya during election is because there is no political will to stop it. Political will to do things right, to allow the democratic processes to determine objectively the leaders who are preferred based on character, ability and leadership competencies. Lack of political will has submerged Kenya in dubious and desperate situations economically, social, and politically. Bribery and corruption is done by people, who are citizens. There are channels put in reporting bribery and corruption and a constitutionally mandated agency have been put in place to deal with such menace. Lack of political will is the broken and punctured this efforts to eradicate bribery and corruption. Kenya's good gesture in the fight for corruption when it lead in signing its commitment in the fight against corruption by becoming the first country in the world to ratify the UN Convention Against Corruption in December 2003 in Merida, Mexico. This notwithstanding, Kenya had had anti-corruption agency from the year 1957. This has been strengthened in various amendments in 2010 constitution act (Chapter 15's Article 248) it was mandated to set the integrity bar for all the public servants in Kenya. In addition to this, this commission was to oversee the fight against corruption in all sectors - economic, social and political. Even with these steps political will has been a stabling block. Because the very people.

2.2.3 Breakdown of societal values and norms

Every society has an elaborate culture, which consists of beliefs, norms, practices, values and the general ethos. African had social, moral and political values which emphasized great ideals on life. When these values and norms are compromised, the society is deemed to suffer and have moral decay. Accordingly, society identified firm values and they observed and followed them. Antia contends that “what a people hold to be true, right or proper with regard to those things

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explains much of the cultural traits by which they become identified” Antia (2005: 17). In Kenya, the erosion of these moral, social and political values have opened the society to various vices. For instance, the continued experience electoral bribery and corruption is a sign that moral values like, honest, transparency, objectivity, justice, disloyalty and unity have been thrown out of the window. The question worth asking here is whether bribery and corruption existed in the state in which it is in the past or not. Second, whether these act contradicts any cherished African societal values. The answer to the first question is bribery and corruption didn’t exist in Africa in the state in which it is because everything was held by the community and the community had a collective communalism, hospitality, sharing equitably, respect for humanity and man not based on what he had but by the fact that he is a human being, social unit and value of regard for everybody, believe in justice which went beyond retributive, restorative, distributive to form of justice based on amicable. These values could not allow the roots and fabrics of bribery and corruption to emerge.

Due to capitalism, poor governance, modernity, societal values have been washed away by unknown and exotic values centred in globalization, modernity, perverted exercise of freedom, capitalism, free market forces, competition, technology and consumerism. This is against the spirit which enshrined in the constitution of Kenya on leadership and integrity which emphasised on ethical and moral value from each person (Constitution of Kenya chap 6).

2.2.4 Weak civil society

The term civil society refers to a collective of free citizens who organize their common life in an autonomous and co-operative way. Rainer Forst said that the role of civil society in modern democracies cannot be overemphasized. Their role is irreplaceable by any political parties, organized lobby groups because they have a constitutional role. According to UN, civil society has been emphasized and this has led to the formation of a strong initiative to network, register and mobilize civil society from all member state for a common front. This is called the integrated Civil Society Organizations (ICSO) System, and is developed by the Department of Economic and Social Affairs (DESA).

There are many roles which civil societies carry out. They range from political, social, economic organization meant to bring transparency and accountability so as to attain a just society for everyone. When these roles are not done well, then that civil society actors and roles are weakened and there by opening door for corruption of resources which may include poor distribution of human and economic resources, manipulation, unjust treatment of citizens and political dishonest and intimidation and suppression. Kenyan civil society is weak, disorganized, conflicting and disparate in its positions. It has been weakened partly because of the high handedness of the government, but largely because of lack of focus, lack of good will, and lack of funds to drive the various agenda. A case to recon is the fact that civil society are largely self-interested instead of being people, citizen or common interest driven. Many civil society activist have done that just to gain money and after that they keep quiet. They are easily compromised using money, gifts and other advancement so as to stop championing what could benefit the common people. The question that is fundamental here is, to what extent are civil society

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advancing and pushing social, economic, and political interest of the people? How democratic are they in their pursuit? Finally, how firm are they to the fundamental principles of morality, ethics and good governance? Chandhoke, identified the following three weakness. As De Tocqueville puts, there is the danger of being co-opted by powerful interests or at least of co-operating with them without adequate authority. Again, the issue of the unequal distribution of power resources and the issue of hegemony appear (Chandhoke, 2003).

Ideally civil society have changed from the Aristotelian conception of whereby he thought of civil society as *koinonia politike*– translated into Latin as *societas civilis*– referring to a political community of free and equal, virtuous citizens, bound together by a willingness to advance their common interest by means of political self-rule in order to protect their liberty against both despotism and anarchy (Aristotle, politics)

2.2.5 Lack of professional integrity

In many African countries, the issue of election exposes various challenges touching on the professional integrity. It has been witnessed that those who are involved in the process for preparation of election engage in unprofessional and unethical practices which compromises their ethical conduct and code of ethics. For example, it is against the ethical conduct for an officer responsible for a particular polling station or tallying center to collude with a contestant to either change figures to enable him to be pronounced a winner. The New Constitution has established an independent Commission, the Ethics and Anti-Corruption Commission EACC, to lead the fight against corruption in all sectors - economic, social and political but perhaps more importantly, to set the integrity bar for all and especially for officers in the Public Service.

2.2.6 Lack of transparency and accountability

In Kenya one of the requirements set by the constitution in all government public procedure and operations is transparency and accountability. It is very hard to define transparency without involving or falling to the term accountability. This is because the two concepts reinforce, complement and inter related with each other. Transparency is a principle which obliges all public officials, civil servants, managers working in governmental and non-governmental sectors and directors of companies and organizations to act visibly, predictably and understandably to promote participation and accountability.

In this regard, it is a factor which is not only important in election process, but also very critical in order to ensure that there is free, fair and credible election. Transparency entails openness, acting within the rules and regulations, in a predictable and in a way that is well understood everybody. Two important aspect hold and stand out when it comes to transparency in electoral process. These are timely and accurateness of the entire counting and tallying process and relevant and accessible information as to the how and what transpires in the entire steps before and after election.

Accountability essentially means to be able to be answerable for one's action especially in social economic and political sphere. This is a vital aspect which should be maintained during

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and after election. In other words all public officers are supposed to be responsible for all the decisions and actions that they do.

3.0 Critical appraisal on election in Kenya

In all these factors, the issue of character, ethical and moral standards, ability for proper, responsive, transparent and accountable leadership is not paid great attention. As a matter of fact, even when it is known to the people, it says nothing to the choice they are making. According to the Kenyan constitution (Chapter 6) there are things which should be looked at in choosing any public servant be it in the elective post or administration office. It states clearly that the criteria of all those aspiring for various public offices shall be based on personal integrity, competence and suitability and the selection or election should be on objectivity and fairness and transparency. This ideally sets the scope and the underlying principles of leadership and should guide all public and private officers aspiring for leadership in government and non-governmental institution. On the contrary, this has not been achieved and the agencies that are charged with responsibility to implement and foster this principle are themselves violator of such.

Ideally speaking, this situation should not be tolerated at all. According to Tocqueville, democracy should be revitalized from being a mere theory to actual implementation in governance and leadership of all institutions in particular country. He insisted that “the institutions are democratic not only on principle, but particularly in how they function; the people choose their representatives directly, and they choose them every year, in general holding them more fully accountable” (Tocqueville 2009:62). American people have placed a very significant role in the democratic process and development of social economic and political atmosphere where decisions and choices are made based on the character, ability and knowledge of the candidates and not on bribery and corruption of the electorate. This has given the American people a very firm foundation established on proper and constructive democratic process where they are able to hold their leaders accountable and responsive to their manifesto and ideology. They are able to demand for proper performance from their leaders because their choices were informed and built on the ability to deliver a recommendable leadership and governance. The issue of bribery and corruption is highly monitored and there are a number of acts and provisions in their constitution which deter and dissuade anybody wanting to. The civic education and civic responsibility is so incredible such that they do not encourage unfair electoral practices during the pre and post electoral period.

4.0 Free and Fair Election as Expression of Democracy

Elections are a defining characteristic of democracy, and thus form an integral part of the democratization process. It fundamentally represents an important dimension in the efforts towards democratic consolidation in any country. Stated differently, elections are not synonymous with democracy, however election is central component of a functioning democratic system. It is a symbol of democracy. Electoral participation is one of the three indicator of democracy (Powell, 1982)

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According to Ogwora, (2015), political crisis in Africa is caused by the leaders' scramble for wealth and power. It is not a desire to inspire, lead and deliver better services and provisions to people. Usually, leadership is bought through dubious means which involves bribery, corruption, intimidation and violence to force people to vote otherwise. The most important criteria for a free and fair election include the following: (1) the right of all voters to participate in the electoral process without hindrance. This is usually ensured if there are no threats or obstacles towards free expression; (2) freedom to campaign for all political parties. This is achieved in situations where people are guided by ideology and manifesto to choose which party to belong or campaign for; (3) secrecy of the ballot is important because it makes citizens feel that their act of choice is confidential and will not bring any harm; (4) reasonable speed in the counting of ballots. This is very important so as not to allow any opportunity for stealing of votes and tilting results otherwise; (5) accountability and openness of the electoral process to the competing parties so as to portray a neutral stand and objectivity to all the parties involved in the election and (6) an acceptable electoral law which are made after proper and constructive dialogue and consensus (Ndulo 1990).

In other words, this should be maintained in order to call any election free and fair or have a manifestation of a true democratic process. If there is the use of bribery and other corruptive acts to change the electoral process, this will affect participation and freedom of choice thereby yielding undemocratic election.

Conclusion

In this paper, a presentation has been made about political organization in Kenya. It has been observed that the role that bribery and corruption plays in various elections in Kenya. It has been realized that while there are many electoral malpractice which will affect the outcome of any particular election, bribery and corruption stands out as one of the greatest changer and determinant of election. Consequently, this has messed with the elections in Kenya and has led to choosing of leaders who do not deserve to hold public offices. As said above, regular, free and fair election is one of the core values of democracy. Moreover, if this democratic process is affected through lucrative menace like bribes and corruption, then such election serves no role in revitalizing and reinforcing democracy in Kenya. In conclusion, Kenya needs to strengthen the electoral system, improve and emphasize the role of EACC and finally prosecute all cases of corruption in order to deter anybody involving in bribery and corruption which has extended to elections.

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